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Application No. 10/082,771

Filed: February 25, 2002

TC Art Unit: 2613

Confirmation No.: 4427

REMARKS

Claims 1-42 are presented for reconsideration. Claims 1, 9, 16, 22, 27 and 35 are currently amended. No new matter has been introduced.

**Rejections Under 35 U.S.C. § 103**

Claims 1-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller (U.S. Patent No. 6,067,288) in view of Kakizaki (U.S. Patent Application Publication No. 2001/0046074) and Bowmaster (U.S. Patent No. 5,455,832). Applicant has amended independent claims 1, 9, 16, 22, 27 and 35 in order to more clearly distinguish the present invention over the cited art.

Claim 1, as amended, recites a method of monitoring performance of a communications network. First and second communication channels, in a protection-switching configuration, are simultaneously monitored so as to accumulate respective first and second performance data in respective first and second counters. During a first time interval, the first performance data are also accumulated in an active counter. Then, following a protection switchover, the second performance data are accumulated in the active counter. As a result, the active counter contains a

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WEINGARTEN, SCHURGEN,  
GAGNKHIN & LISNOVICH LLP  
TEL. (617) 542-2290  
FAX. (617) 431-0313

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sum of the first and second performance data accumulated respectively during the first and second time intervals.

This aspect of counter operation is implicit in the mode of operation of the "third counter" that is described in paragraph 0029 of the specification, the third counter being the active counter:

"When a protection switchover occurs ... the third counter continues accumulating data, but becomes associated with the new active port. At the end of a read interval, the third counter correctly reflects the number of data items received, regardless of switchovers between the primary and secondary channels."

The result of the type of switchover operation that is recited in amended claim 1 is reflected, for example, in the count results shown in Table 2 (following paragraph 0104). This feature of the present invention is beneficial, *inter alia*, in that it provides "a convenient combined performance monitor for the primary and secondary lines of an automatic protection switched network" (paragraph 0028).

The cited art neither teaches nor suggests the type of monitoring arrangement recited in claim 1, in which a third counter contains a sum of data taken from different channels during different time intervals, one subsequent to the other.

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Miller describes a PM data acquisition library 11 (Fig. 3), which includes different classes of data modules 19, 21, etc. (col. 8, line 62 - col. 9, line 10). Each module maintains two banks of information: bank 20, which holds data associated with the current monitoring interval, and bank 22, which holds data associated with the previous completed monitoring interval (col. 9, lines 30-35). Evidently, the data modules may be duplicated in order to monitor "first and second transmission line channels" (col. 5, lines 54-65, cited by the Examiner). There is no indication in the figures or text of Miller as to how such duplicated data modules might be configured. Miller does not even faintly suggest that data from modules associated with two different channels might be accumulated in a third counter, as required by amended claim 1, so that this third counter contains a sum of data accumulated from the two channels during different time intervals.

Kakizaki describes protection switching apparatus, which may include "monitor ports" for first and second transmission lines, including a protection circuit monitor port 630 (paragraphs 0058, 0065, cited by the Examiner). Kakizaki gives no details of the structure or operation of these monitor ports, and certainly does not suggest that a third counter might accumulate data from

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monitor ports on different channels in the manner recited in claim 1.

Bowmaster describes a method and system for testing a SONET network element, including performance monitoring functions (col. 13, lines 53-57). Bowmaster is concerned only with a single element, however, and makes no reference to simultaneous monitoring of multiple channels, let alone suggesting that data from different channels be accumulated in one counter, as required by claim 1.

Thus, claim 1, as amended, is believed to be patentable over the cited art. In view of the patentability of claim 1, dependent claims 2-8 are also believed to be patentable.

Independent claims 9, 16, 22, 27 and 35 have been amended in like fashion to claim 1 and are thus believed to be patentable for the reasons explained above. In view of the patentability of these independent claims, dependent claims 10-15, 17-21, 23-26, 28-34 and 36-42 are also believed to be patentable.

#### SUMMARY

Claims 1-42 are pending. Claims 1, 9, 16, 22, 27 and 35 are currently amended. Claims 2-8, 10-15, 17-21, 23-26, 28-34 and 36-42 are original claims. It is believed that the amendments and

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remarks presented hereinabove are fully responsive to all the grounds of rejection and objections raised by the Examiner, and that the Application is now in order for allowance.

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

SHARON MANTIN ET AL.

By: 

Charles L. Gagnebin III  
Registration No. 25,467  
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,

GAGNEBIN & LEOVICI LLP

Ten Post Office Square  
Boston, MA 02109  
Telephone: (617) 542-2290  
Telecopier: (617) 451-0313

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